

Application # 09/921,542
RCE Preliminary Amendment dated October 15, 2004
Reply to Final Office Action dated June 17, 2004

PATENT
P-5204

REMARKS

Claim 1 has been amended to clarify the structural elements relationship responsible for maintaining the sample vessel at substantially less than 90 degrees with respect to the horizontal. Support for this amendment can be found in paragraphs [0032] and [0033] and Figures 1, 2 and 3 of the Specification of the present application.

Claims 2-4 and 6-10 have not been amended and are still pending in the present application.

Claims Rejection – 35 USC § 102

Claims 1 and 6-10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent application No. 2,974,018 to McNeilly ("McNeilly").

This rejection is respectfully traversed in view of the amendment to claim 1 made herein.

Amended Claim 1 is directed to a system for stirring a solid suspended in a liquid media in a sample vessel, said system comprising, among other things: a panel, containing one or more openings in which sample vessels are held, wherein said openings are tilted with respect to the horizontal, such that said sample vessels when held in said openings are tilted at an angle substantially less than 90 degrees with respect to the horizontal.

McNeilly teaches an improvement to the Van Slyke volumetric apparatus for determining the gas content of blood, of the type where mercury is used as the confining fluid. McNeilly discloses, as reflected in Figs. 1, 2 and 3, an upright sample vessel (46) containing a stirring bar (50) comprising of magnetic material, a first magnet (74) adjacent to the vessel, means (72) (76) for rotating the first magnet and a second magnet (78) fixedly mounted adjacent to and above the first magnet, the second magnet also being adjacent to the upright sample vessel.

Applicants respectfully point out McNeilly fails to disclose at least the claimed features of: a panel, containing one or more openings in which sample vessels are held, wherein said openings are tilted with respect to the horizontal, such that said sample vessels when held in said openings are tilted at an angle substantially less than 90 degrees with respect to the horizontal. Thus, McNeilly does not anticipate amended claim 1.

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For these reasons, applicants submit that amended claim 1 and dependent claims 6-10 are not anticipated by the McNeilly reference. Entry of this Amendment, and allowance of all pending claims is therefore respectfully requested.

In view of proposed remarks, applicants submit the proposed claims are patentably distinct over the prior art and allowable in form.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 02-1666.

If the Examiner has any questions or comments relating to the present application, he or she is respectfully invited to contact Applicant's agent at the telephone number set forth below.

Respectfully submitted,



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